

Case Law Today - May 2011

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Miranda: Seibert v. Elstad

with Daniel McNeerney, Superior Court Judge, Orange County, CA
In Thompson v. Runnel, a divided federal appellate court discussed the differences between “two-step” interrogations prohibited Seibert, and port-Miranda questioning allowed under Elstad after an initial statement taken without Miranda. *Case cited: Thompson v. Runnel* (2010) DJDAR 14271. (10:27)

Downloading Data From Vehicle's EDR is Search

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
Downloading data from a vehicle's event data recorder (also known as the sensing and diagnostic module, or SDM)-- even after the vehicle has been lawfully seized-- requires probable cause to believe the event data recorder will contain evidence of a crime. *Case/Statute cited: People v. Xinos* (2011) 192 Cal. App.4th 637; Veh. Code § 9951. (12:12)

Student Searches: A Primer

with William W. Bedsworth, Appellate Court Justice, State of California
Using the recent case of In re Sean A., Justice Bedsworth outlines the basic rules applicable to the search of students. Watch this and you'll know enough to make legal/illegal search calls about school searches. *Case cited: In re Sean A.* (2010) 191 Cal. App. 4th 182. (7:45)

Miranda's Booking Question Exception & Gang Affiliation Queries

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
Questions asked during the booking process regarding gang affiliation or monikers do not need to be preceded by Miranda warnings where the questions are asked to further where the questions are designed to elicit incriminatory admissions but because they are reasonably related to a legitimate administrative purpose in the “classification of inmates by gang affiliation for jail security. *Cases cited: People v. Gomez* (2011) 192 Cal.App.4th 609; Pennsylvania v. Muniz (1990) 496 U.S. 582. (10:31)

Can An Attorney Invoke Miranda?

with Devallis Rutledge, Special Counsel, Los Angeles CO District Attorney's Office
Miranda “rights” cannot be invoked anticipatorily, before custodial interrogation is imminent or ongoing, and an attorney's filing of written notice that his client invokes his right to silence and counsel as to all police questioning on all cases is invalid. *Cases cited: McNeil v. Wisconsin* (1991) 501 US 171; People v. Avila (2000) 75 Cal. App. 4th 416. (7:46)

Custody for Miranda Purposes Is Fluid

with Jeff Rubin, Deputy District Attorney, Alameda County, CA
Just because a suspect is detained in the back of a patrol car in a manner that would be custodial for *Miranda* purposes if the suspect were interrogated at that point, this does not mean a subsequent interrogation that takes place immediately after the suspect has been removed from the patrol car will also be deemed custodial for *Miranda* purposes. *Case cited: People v. Thomas* (2011) 51 Cal.4th 449. (6:48)

